

February 28, 2002

Robert Durand, Secretary
Executive Office of Environmental Affairs
Attention: MEPA Unit
N. Zavalas, #12703
251 Causeway St., Suite 900
Boston, MA 02114

Re: Westport Lakes project in Westport
File Number: 12703

Dear Secretary Durand:

On February 9, 2002 a notice was placed in the Environmental Monitor (File Number: 12703) requesting comments for the proposed Westport Lakes project in Westport. As indicated in the Environmental Notification Form (ENF), the first phase of this project will involve the construction of a nine-hole golf course. Seventy-six residential units (18 buildings with 4 units each and 4 single family homes) clustered withing the golf course are planned for Phase II.

The Buzzards Bay Project National Estuary Program routinely reviews projects of regional impact such as this one to ascertain whether they meet the goals and objectives of the Buzzards Bay Comprehensive Conservation and Management Plan¹ for the Buzzards Bay watershed. Below we list issues that we believe need to be addressed further.

First, it is worth noting that the ENF filed with MEPA incorrectly indicated that the project was being undertaken in the City of Fall River. This is a significant error because projects in the Environmental Monitor are often perused by municipality, and this error of jurisdiction may have resulted in an inadequate notification of the public. The Buzzards Bay watershed was correctly identified, but large sections of Fall River are in the Buzzards Bay watershed so this fact does not aid the reader. This omission is cause for requiring a re-notification in the Environmental Monitor.

Based on the information provided at the MEPA site visit, the Buzzards Bay Project is aware that this project is undergoing local review (Planning Board and Zoning Board). The Westport

¹This watershed plan was approved by the US EPA and Commonwealth of Massachusetts in 1991.

Conservation Commission has issued an Order of Conditions for the golf course and roadway, but this Order of Conditions is currently under appeal to the Department of Environmental Protection, and a Final Order of Conditions has not been issued. At this time, the permit for the construction of the residential units has not been filed with the Conservation Commission.

The appeal of the Order of Conditions will likely address the fact that not all streams at the site are shown on the plans prepared for this project (see attached USGS map). In particular, the northernmost stream on the plans is shown as an intermittent stream, whereas USGS topographic quadrangle maps show it to be perennial. In addition, the USGS topographic maps shows that the uppermost reaches of Kirby Brook pass through the Westport Lakes Project property through parcels 31:2 and 31:4 and terminate at a small shrubby pond just beyond the property bounds. This upper portion of Kirby Brook is not included in the applicants prepared plans. These features are relevant because of the potential expanded wetland jurisdictional boundary and regulations promulgated pursuant to the Rivers Protection Act. Of course, USGS maps are not the legal basis for the Rivers Protection Act, and the burden of proof must be provided by the applicant to demonstrate that these streams are or are not perennial.

Finally, the Westport Lakes Project is located within the watershed of the Westport River (East Branch). The East and West Branches of the Westport Rivers combined are the second largest subwatershed within Buzzards Bay, accounting for almost 20% of the freshwater inputs into Buzzards Bay. According to the Coalition for Buzzards Bay's most recent Bay watchers report, the water quality within the East Branch of the Westport River is impaired, having some of the worst Eutrophication Health Index scores and nitrogen levels around Buzzards Bay. Due to the impaired nature of the receiving waters of this project, the proponent should ensure that this project minimizes impacts to downstream resources.

The Buzzards Bay Project suggests the proponent provide the following information to MEPA:

1. All resource areas need to be identified on the plan

To properly evaluate the impact to wetland resources, the proponent must include the 100-foot wetland buffer and all stream data for both perennial and intermittent streams on the site plans. According to the USGS topographical map for this area (attached), there are several streams that could be impacted by this development. The proponent needs to determine the status of these streams (whether perennial or intermittent) along with appropriate documentation. If any of these streams are determined to be perennial, the 200-foot river buffer must be identified and the River Protection Act regulations addressed.

2. Proposed management practices to maximize nitrogen removal should be included.

Since the East Branch of the Westport River is sensitive to additional nitrogen inputs, all efforts to reduce nitrogen should be made from this project. The proponent should propose some

management practices to reduce the nitrogen-load from this project. Practices could include lawn management (similar to the golf course management plan), maximizing natural landscapes, nitrogen-reducing septic systems and nitrogen reduction in the stormwater ponds. The method of wastewater disposal is especially important because of the clustering and density of the units may result may result in elevated groundwater nitrogen concentrations, which might elevate nitrogen loads flowing through Kirby Brook.

3. Stormwater details

According to the Notice of Intent submitted with the ENF, this project will create 8.41 acres of impervious surface. From the drainage calculations, surface water from 1.91 of these impervious acres will be directed into three stormwater ponds. The proponent has indicated that these ponds along with pavement sweeping and deep sump catch basins will remove 80% of the Total Suspended Solids (TSS). The majority of this treatment will occur within the three ponds. It is not clear however, how 80% TSS removal will be attained for the remaining 6.49 impervious acres if they do not discharge into one of these ponds (Subcatchment Bypass in the drainage report). In addition, the proponent has not indicated how the Standard #3 (Recharge to groundwater) of the Department of Environmental Protection's Stormwater Policy will be met. To ensure that all DEP stormwater standards are being met, the proponent should submit Notice of Intent WPA Appendix C - Stormwater Management Form.

4. Alternatives analysis should be included

As required by the MEPA regulations the proponent must provide an analysis of potential land use alternatives. This alternative analysis was not included. To ensure that this project results in the least amount of impact to the surrounding resources, this alternatives analysis should include the nitrogen management, wastewater disposal treatment options, and stormwater issues described above.

Sincerely,

Joseph E. Costa, PhD
Executive Director

cc. Westport Conservation Commission
Liz Kouloheras, DEP-SERO
Gay Gillespie, Westport River Watershed Alliance
Mark Rasmussen, Coalition for Buzzards Bay
Dave Janik, Buzzards Bay Watershed Team

attachment

